



The Salisbury Planning Board held its regular meeting Tuesday, January 27, 2009, in the City Council Chamber of the Salisbury City Hall at 4 p.m. with the following being present and absent:

**PRESENT:** Karen Alexander, Dr. Mark Beymer, Maggie Blackwell, Robert Cockerl, Richard Huffman, Craig Neuhardt, Valarie Stewart, Albert Stout, and Bill Wagoner

**ABSENT:** Tommy Hairston and Diane Young (one vacant position)

**STAFF:** Dan Mikkelson, Preston Mitchell, Diana Moghrabi, and David Phillips

This meeting was digitally recorded for Access 16 television and Mark Wineka, reporter for the *Salisbury Post*, was present.

Dr. Mark Beymer, Chair, called the meeting to order and offered an invocation. The minutes of the December 9, 2008, meeting were approved as submitted. The Planning Board adopted the agenda with one change in the order.

Dr. Beymer explained the Courtesy Hearing process and swore in persons who planned to speak during the quasi-judicial hearing.

## **NEW BUSINESS**

### **A. Special Use Permit**

- Swear in those persons testifying at courtesy hearing
- Present evidence—courtesy hearing
  - Receive testimony from staff
  - Receive testimonies from proponents and opponents
- Findings of facts
- Recommendation to City Council

**SUP-05-08**      Staggers Nightclub  
923 South Main Street  
TM-061 P-048  
Zoned HB

Application submitted by Lee Chann McManus to operate a Bar/Nightclub.

David Phillips made a staff presentation. This submittal is a request for a Special Use Permit for a nightclub. This was deferred from the December 9, 2008, Planning Board meeting. No materials or information had been submitted to staff since the last meeting.

- Planning Board requested additional information regarding available parking spaces on the site and on other sites. If the petitioner seeks to use parking on other property, the Planning Board requests letters from those property owners be presented with their (the owners) confirmation of approval.
- The Planning Board requested a lighting plan for review to ensure it is in keeping with the lighting standards of the Salisbury ordinance.
- The Planning Board recommended a meeting with the adjacent property owners and requested a report on that outcome.

The Fire Marshall spoke to staff. Because the space is either greater than 5,000 square feet or has an occupancy load greater than 100 (current conditions), it will be required to be sprinkled.

Based on information from the City's GIS and a field inspection, there are no schools within 500 feet of the site.

There are 112 parking spaces for this site. The petitioner proposes to operate during evening hours when the other businesses are closed.

*No one spoke in opposition.*

*Those speaking in favor*

**Lee Chann McManus**, 206 Cruse Circle, distributed a letter from Lt. Melonie Thompson of the Salisbury Police Department. In the letter, she stated that it was her opinion that the lighting was adequate, but a light needed repair. She recommended a traffic flow pattern for parking and stated that parking behind the business was not allowed. Lt. Thompson recommended two officers for security purposes, with one of them parked at the rear of the business and one officer parked near the front doors of the business to maintain order and to direct traffic.

Mr. McManus said his primary distinguishing feature for this proposed nightclub will be security for their patrons. (Proposing three parking lot attendants and two officers) Mr. McManus stated that he has never owned a nightclub, but he has managerial skills. He has friends who are also opening a business in Charlotte.

Mr. McManus is in the process of pricing the required sprinkler system. He was not aware of the sprinkler system requirement until two weeks ago. He anticipates a quote in two more weeks. Mr. Wagoner cautioned Mr. McManus that the cost and fees could be substantial.

Mr. McManus had a blueprint of the interior of the building (excluding the sprinkler system), but not one of the exterior and not a site plan or lighting plan. The total square footage of the interior is approximately 3,800 square feet. He did not present written permission to use parking belonging to other property owners.



*Board Discussion*

**Albert Stout** believed that the health, safety and welfare could not be established until there is some history. He is not prepared to make a decision. The sprinkler issue is covered by the Fire Marshall and City Code.

**Mark Beymer** felt strongly that he needed clarification about the parking permissions and sprinkling the building.

**David Phillips** explained that the sprinkling of the building is regulated by Rowan County Building Inspections and the City of Salisbury Fire Department. If not done, the business would be closed for violation. They will be required to obtain both a zoning permit and a building permit. A zoning permit will not be issued until the City has collected the fees for the fire line. They will not be allowed to occupy the building until the fire line has been inspected.

**Preston Mitchell** added that any reference to meeting ordinance requirements does include all ordinances (zoning, building, fire).

The nightclub requirement for parking spaces is 24 at this site. Occupancy for this building set by the Fire Marshall is 500 people. Bill Wagoner voiced concerned about using adjacent property owners parking without permission and the safety concerns of parking on the other side of a four-lane road.

**Bill Wagoner** believed the petitioner had done due diligence with the police department on the lighting issue and he is going to have to meet and comply with all building codes (or he will not open). Mr. McManus has said he will provide necessary security. The Police Department letter goes a long way in supporting the "health, safety and welfare" requirement. Mr. Wagoner will have to take him on his word about that to meet the public health and safety requirement in the Findings of Fact. From the zoning perspective, this use is permitted at this site by special use permit. The use meets the intent of the Land Development Ordinance. This use, with people coming and going, automobiles parking, self-contained (noise is inside the building-not outside), it is right next to a railroad, etc. does not visually harm and is appropriate for the commercial/industrial look of the area.

Findings of Fact

1. Dr. Beymer stated that, "Planning Board finds that the facility is not within five hundred (500) feet of any lot containing a school." All members agreed.
2. "The finding above allows this to be compatible with all required principles and specifications of the Ordinance and any adopted land use plans and is in harmony with the general purpose and intent and preserves its spirit." (all agreed)

3. "Based on the proposed plan as submitted and potentially approved this will be visually and functionally compatible to the surrounding area; there are no changes being made to the exterior." (all agreed)
4. "The public health, safety, and welfare will be assured and the proposed development will not substantially injure the value of adjoining property and associated uses if located where proposed." (all agreed)

**Bill Wagoner** made the following MOTION based on the findings of fact that have been entered into the record. Planning Board makes the recommendation of approval for SUP-05-08. The MOTION was seconded by Maggie Blackwell with all members voting AYE. (9-0)

## **B. Group Development**

**G-1-93**            Hidden Creek  
                         3000 block Jake Alexander Boulevard North  
                         TM-326 P-0 002

**David Phillips** made a staff presentation.

Mr. David L. Martin, representing the Hidden Creek Property Owners Association, submitted the application requesting the private streets within the subdivision be accepted into the City system as public streets.

The Hidden Creek subdivision was originally approved as a group development under the previous zoning ordinance. At the time the plan was approved, the property was zoned RD which permitted private streets and also allowed the developer to establish an alternative to lot sizes and setbacks. The existing roadway is 24 foot back of curb to back of curb. The proposal would establish an additional 10-foot public easement on each side of the existing road creating an overall 44-foot wide public easement.

The Technical Review Committee recommends approval of the application. City Council will make the final decision. If City Council approves, a new subdivision plat will have to be recorded showing the streets as public and any other conditions such as stop conditions.

*Those speaking in opposition*

None



*Those speaking in favor*

**David L. Martin**, 611 Hidden Creek Circle, president of the Hidden Creek Property Owners Association which consists of 143 property owners, said six people with him today were either board members or on the Hidden Creek Streets Committee.

This issue has been under discussion for a number of years—the fact that Hidden Creek was a part of the city but the streets were not. Originally, the whole community was to be townhouses, but that plan was altered radically; more than 120 units are now patio homes. Our streets look and act like public streets. There is no throughway street into or out of the development. It is to the residents and to the City's advantage to be included in the City's street system. A parking lot area and a cul-de-sac will not be included. This was pointed out on the aerial photograph.

*Board Discussion*

To staff's knowledge, there are no drainage problems.

**Valarie Stewart** made a MOTION to approve **G-1-93** as submitted. **Albert Stout** seconded the motion with all members voting AYE. (9-0) This will proceed to City Council with a Planning Board recommendation to approve.

**C. LDO Text Amendment**

Preston Mitchell made a staff presentation and demonstrated the Planning Board Web site. This item was moved in the agenda order because staff believed it necessary to do before hearing the case for Sacred Heart.

**LDOTA-02-09 Amendments & Revisions to Conditional District Overlays**

In the first year of the Land Development Ordinance (LDO) and the new Conditional District (CD) Overlay legislative process, the large majority of CD petitions were for new adoptions or major overhauls of old S-Districts carried over from the former zoning code. Now that CDs are beginning to build out, the need for minor revisions to these plans are coming about. Although staff understands the difference between a major and minor change to a CD, the LDO does not clearly differentiate between a minor change (Revision) and a major change (Amendment) other than listing what possible condition(s) would send a change to City Council for re-adoption of the CD ordinance.

This LDO text amendment better defines the difference between a Revision and an Amendment to a Conditional District Overlay. Basically, a Revision is a change that does not alter the basic development concept, or intent, of the original proposal. In addition, approvals of Revisions are granted to the Planning Board unless the board believes that a revision is significant enough to require City Council consideration. An Amendment is a change that may significantly alter the basic development concept or is a change that alters the public expectation that was satisfied following due process.

*No public comment*

**Karen Alexander** made a MOTION that “The Planning Board finds and determines that the following Land Development Ordinance Text Amendment LDOTA-02-2009, Amendments and Revisions to Conditional District Overlays, is consistent with the goals, objectives, and policies of the Vision 2020 Comprehensive Plan, and hereby recommends Approval.” There was a friendly amendment to correct the strikethrough and underlines in section E on page 15-31 to read “The following eight circumstances (instead of seven) have the potential for significantly altering...” Dick Huffman seconded the motion with all members voting AYE. (9-0)

#### **D. Conditional District Revision**

**CD-7-02-2008**      Sacred Heart

Revision to CD Master Plan for: (1) Public & private streetlight plan (2) Street Cross-Section gutter pan.

Preston Mitchell made a staff presentation. This is the first revision being brought to any conditional district since the Land Development Ordinance was adopted in January of 2008.

This particular revision was triggered as the engineered drawings were developed. The first request is for location of public streetlights. Both the city and the developer sought assistance from Duke Energy for design of the public street lighting and the Duke Energy design does not match the location of streetlight poles on the plan that was adopted by City Council. The second request is for width of the street cross-section gutter pan. The City Council-adopted plan identifies a pan width of 1-foot, 6-inches. The engineered drawings change this width to two feet.

Since Planning Board is the approval authority for all CD revisions, staff recommends approval of these Sacred Heart Master Plan revisions.

**Karen Alexander** made a MOTION to approve **CD-7-02-2008** as submitted. **Valarie Stewart** seconded the motion with all members voting AYE. (9-0)

#### **E. Street Re-naming Request**

Current Street Name: Institute Street

Recommended Name: Livingstone College Way (From Monroe to W. Innes Street)

David Phillips made a staff presentation. He read the City policies for City Council regarding street name changes. Once presented to City Council, a 30-day input period



will be required. Thirty-three properties are affected but this does include more tenants than this number.

Dr. Herman J. Felton, Vice President of Institutional Advancement, submitted the application for the re-naming of Institute Street to Livingstone College Way on behalf of the Livingstone College Board of Trustees.

Thursday, February 5, 2009, the college will celebrate its 130th Anniversary and is asking for this request to be considered in order to properly honor and reflect the present name of the college. The applicant also provided a petition with 15 signatures from the residents on Institute Street. Seventy-five percent of the property owners signatures affected by the name change must accompany the petition. This requirement has not been met.

Rowan County E-911 has verified the proposed name is not a duplicate of any other name in the system and would be acceptable. After much discussion and with a 5-1 vote, the Technical Review Committee found no reason to object to the name change. The one negative vote felt there may be some historic significance associated with the name Institute but this was not able to be determined by staff.

**Karen Alexander** recused herself; she is working on a master plan project with the college.

**Albert Stout** believed the first name on the building was Wesley Institute. Institute used to run from Innes Street to Old Plank Road. He would have a problem changing the historic significance of this name. David Phillips added that the section of Institute that now goes through Livingstone property is not publicly maintained.

*Those speaking in opposition*

**Dorothy Campbell** of 412 South Institute Street is not opposed to change, but wants to know more about the intentions of the college. She would like to see better communications with the neighborhood about their plans. The residents were asked to sign their name to a pad but there was no other contact or discussion.

She recently circulated a petition for additional lighting on Institute Street; this petition has every property owners' name on it and not the renters' names. She offered the list for the college to use as a contact list.

There is a street, not too far from this location, already named Livingstone Avenue. It is at the end of Horah Street and goes through the cemetery. This could complicate mail delivery. A different name might be more acceptable.

**Blanche Sherrill**, 828 West Monroe Street, addressed the historic value of the name; it would be more significant if the street was named after the founders of the school.

**Greta Connor** lives in Sedgefield Acres, but wanted to address the Planning Board on behalf of the Neighborhood Leadership Alliance Committee of the Community Appearance Commission (CAC). She agreed with Ms. Campbell and Ms. Sherrill.

Please consider the problems residents will encounter with the name change. Mailings get diverted; checks and stationery must be reordered. Sedgefield Acres residents have had this experience in their neighborhood.

There are only three houses on Livingstone Avenue—two of them are boarded. Only one of them is occupied.

*Those speaking in favor*

**Dr. Herman James Felton, Jr.** resides at 701 West Monroe Street. He is currently the Vice President of Institutional Advancement for Livingstone College.

“Our proposal to change Institute Street to Livingstone College Way is in commemoration of the 130<sup>th</sup> anniversary. In 1882, the citizens of Salisbury invited Zion Wesley Institute to Salisbury. There have been two locations of Zion Wesley Institute; the first being on the corner of South Main and then to its permanent address off of West Monroe Street.” The request to rename the street will update the current status of the college.

Also, they propose additional lighting. They have renderings that address the inadequate lighting, additional sidewalks, and plant maples and oaks—making Institute Street a promenade into the college. Businesses have expressed support for a roundabout at Innes Street.

They learned today that the signatures they collected should be property owners and not tenants, so they will address that issue. Those who signed the original petition supported the change. This petition is on file in the Development Services Office. **Albert Stout** requested a copy of the petition.

*Board Discussion*

**Maggie Blackwell** feels a loyalty to the college and would like to support their request; however, the historic issue is a concern. She suggested a proper petition before making a recommendation on this name change.

**Bill Wagoner** asked if obtaining signatures from 75 percent of the property owners would resolve any question in the minds of the Planning Board. Both Maggie and Albert said that would resolve the issue for them.

**Dick Huffman** made a MOTION to table a recommendation until the February 24, 2009, Planning Board meeting when they could receive a new petition signed by the property owners. **Albert Stout** seconded the motion with all members voting AYE. (8-0)



There was a motion to return Karen Alexander to the dais. All agreed. There was also a motion to continue past 6 o'clock. All agreed. There was a five-minute recess. During that time, Valarie Stewart, Bill Wagoner, and Maggie Blackwell excused themselves to attend other obligations. Albert Stout, Robert Cockerl, Mark Beymer, Karen Alexander, Craig Neuhardt, and Dick Huffman returned after the break. The Chair reconvened the meeting at 6:05 p.m.

### **LDO Text Amendment**

**LDOTA-01-2009**      Electronic Signs for Colleges/Universities in IC District

**Dick Huffman** made a MOTION to table the text amendment **LDOTA-01-2009**—Electronic Signs for Colleges/Universities in IC District--until the February 24, 2009, Planning Board meeting when more members could be present to discuss this issue. (Since it is contentious) **Albert Stout** seconded the motion with all members voting AYE. (6-0)

### **OTHER BOARD BUSINESS**

#### **Chairman**

- **Nominating Committee**

The committee unanimously recommended Robert Cockerl as Vice Chair of the Salisbury Planning Board for the remainder of the 2008-2009 term. Albert Stout seconded the MOTION from the committee with all members voting AYE.

This committee (Valarie Stewart, Diane Young, Craig Neuhardt, Karen Alexander, Mark Beymer, and Tommy Hairston) will meet again February 10, 2009, at 4 p.m. to nominate the Chair and Vice Chair for 2009-2010.

- **Planning Board Goals 2009-2010**

Planning Board will present goals to the City Council at the February 3, 2009 meeting. Chairman Beymer reviewed the goals that were distributed. Dick Huffman made a MOTION to adopt 2009-2010 Planning Board Goals. Karen Alexander seconded the Motion with all members voting AYE. (6-0)


#### **Staff**

- The Highway 70 visioning session was not well attended by residents. Staff believes that a different marketing strategy is necessary to reach renters living in the area.
- The Faith Road area plan visioning session was well attended. This information is available on the Planning Board Web site.  
<http://www.salisburync.gov/lm&d/pb/pbfrontpage.html>

The Planning Board adopted the 2009 meeting schedule to be filed in the City Clerk's Office.

The next Planning Board meeting will be February 24, 2009.

There being no further business to come before the Planning Board, the meeting was adjourned at 6:30 p.m.

  
Diana Moghrabi, Secretary  
Dr. Mark Beymer, Chair